

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Telecommunications Relay Services</b>	)	<b>CC Docket No. 98-67</b>
<b>and Speech-to-Speech Services for</b>	)	
<b>Individuals with Hearing and Speech</b>	)	
<b>Disabilities</b>	)	

**REPLY COMMENTS OF MCI, INC.**

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May 25, 2005

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<b>Telecommunications Relay Services</b>	)	<b>CC Docket No. 98-67</b>
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**REPLY COMMENTS OF MCI, INC.**

Pursuant to Section 1.415 of the Rules of the Federal Communications Commission, MCI respectfully submits these Reply Comments in response to the initial comments filed in connection with the *Public Notice* released April 28, 2005 in the above-captioned matter.<sup>1</sup>

**I. SUMMARY AND INTRODUCTION**

In the *Public Notice*, the Federal Communications Commission (“FCC” or “Commission”) seeks comment on the *Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate* submitted by the National Exchange Carrier Association (“NECA”) on April 25, 2005.<sup>2</sup> The Commission also seeks further comment on whether it should adopt separate compensation rates for Internet Protocol

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<sup>1</sup> Public Notice, *National Exchange Carrier Association (NECA) Submits the Payment Formula and Fund Size Estimate For Interstate Telecommunications Relay Services (TRS) Fund For July 2005 Through June 2006*, CC Docket No. 98-67, DA 05-1175, p. 1 (Rel. Apr. 28, 2005) (“*Public Notice*”).

<sup>2</sup> *Id.*

Relay (“IP Relay”) and traditional Telecommunications Relay Service (“traditional TRS”) for the 2005-2006 fund year.<sup>3</sup>

MCI filed initial comments on May 13, 2005. It limits these reply comments to two issues:

- *The Commission should maintain the same compensation rate for IP Relay and traditional TRS.* In its Comments, Sprint opposes maintaining the same rate for IP Relay and traditional TRS, a complete reversal of the position it took just over seven months earlier on this matter. In comments filed October 18, 2004, Sprint unequivocally stated that “[i]t is Sprint’s experience that there are no significant cost differences in the provision of Internet Relay and traditional TRS,” and accordingly asserted that “the TRS Fund Administrator should continue to compensate both services at the same rate.”<sup>4</sup> The Commission should take a skeptical view of Sprint’s reversal and follow the recommendations of the majority of companies that have commented on this issue, and maintain the same rate for IP Relay and traditional TRS.<sup>5</sup>

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<sup>3</sup> *Public Notice* at 1.

<sup>4</sup> In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, Comments of Sprint Corporation at 2-3 (filed May 13, 2005) (“*Sprint 2005 Comments*”); In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123, Comments of Sprint Corporation at 7 (filed Oct. 18, 2004) (“*Sprint 2004 Comments*”).

<sup>5</sup> In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67:

Comments of MCI, Inc. at 3-5 (filed May 13, 2005) (“*MCI 2005 Comments*”); Comments of Hamilton Relay, Inc. at 4 (filed May 13, 2005) (“*Hamilton Relay 2005 Comments*”); Comments of Nordia, Inc. at 2-3 (filed May 13, 2005) (“*Nordia 2005 Comments*”)

In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 90-571; CC Docket No. 98-67, CG Docket No. 03-123:

Comments of Hamilton Relay, Inc. at 8-10 (filed Oct. 18, 2004) (“*Hamilton Relay 2004 Comments*”); Comments of Hands On Video Relay Services, Inc. at 26-27 (filed Oct. 15, 2004) (“*Hands On Video Relay 2004 Comments*”).

- *The Commission should adopt Hamilton Relay's MARS Plan.* Hamilton Relay filed comments in which it encourages the Commission to consider its Multistate Average Rate Structure Plan.<sup>6</sup> In its Comments, MCI supports the plan, noting that it would base compensation rates on competition rather than rate-of-return regulation.<sup>7</sup> AT&T also recognizes the merits of the plan, recommending that the Commission give consideration to it.<sup>8</sup> MCI reiterates its support of the MARS plan in these Reply Comments.

## II. DISCUSSION

### A. The Commission Should Follow The Recommendation Of The Majority of Commenting Companies and Maintain The Same Compensation Rate For IP Relay And Traditional TRS

Between the Commission seeking comment on whether it should adopt separate compensation rates for IP Relay and traditional TRS in the *Further Notice of Proposed Rulemaking* adopted in this docket on June 10, 2004,<sup>9</sup> and the *Public Notice* released April 28, 2005, a majority of the commenting companies favor maintaining the same rate for IP Relay and traditional TRS.<sup>10</sup> The number in favor of maintaining the same rate

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<sup>6</sup> *Hamilton Relay 2005 Comments* at 2-3.

<sup>7</sup> *MCI 2005 Comments* at 5-6.

<sup>8</sup> In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, Comments of AT&T at 7 n.10 (filed May 13, 2005) ("*AT&T 2005 Comments*").

<sup>9</sup> In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 90-571; CC Docket No. 98-67, CG Docket No. 03-123, *Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking*, 19 FCC Rcd. 12475 (2004).

<sup>10</sup> In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67:

*MCI 2005 Comments* at 3-5; *Hamilton Relay 2005 Comments* at 4; *Nordia 2005 Comments* at 2-3; *Sprint 2005 Comments* at 2-3; Comments of Ultratec, Inc. at 1-4 (filed May 13, 2005); *AT&T 2005 Comments* at 1 n.1.

would be even greater through the inclusion of Sprint, save for Sprint abandoning the position it took less than eight months ago in its October 18, 2004 comments, in which it unequivocally supported maintaining the same rate.

The parties that support maintaining the same rate for IP Relay and traditional TRS include MCI, Hamilton Relay, Nordia, and Hands On Video Relay Services.<sup>11</sup> As MCI, a major provider of IP Relay, explained in its Comments, there is little difference between the costs of providing IP Relay and the costs of providing traditional TRS.<sup>12</sup> Likewise, Hamilton Relay, also a major provider, stated that it “closely re-analyzed its own cost data, and determined that its costs for providing Internet Relay and traditional TRS are substantially similar.”<sup>13</sup>

Sprint’s position that the rates should be separated is out of step with the majority of commenting parties and with its own prior position in this matter. In its May 13, 2005 Comments, Sprint references the April 2002 Commission decision in which the Commission decided not to separate the rates.<sup>14</sup> Sprint then states that “the passage of

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In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 90-571; CC Docket No. 98-67, CG Docket No. 03-123:

*Hamilton Relay 2004 Comments* at 8-10; *Hands On Video Relay 2004 Comments* at 26-27; *Sprint 2004 Comments* at 7.

<sup>11</sup> *Hamilton Relay 2005 Comments* at 4; *Nordia 2005 Comments* at 2-3; *Hands On Video Relay 2004 Comments* at 26-27.

<sup>12</sup> *MCI 2005 Comments* at 3-5.

<sup>13</sup> *Hamilton Relay 2005 Comments* at 4.

<sup>14</sup> *Sprint 2005 Comments* at 2; In the Matter of Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, *Declaratory Ruling and Second Further Notice of Proposed Rulemaking*, 17 FCC Rcd. 7779 (2002).

time” has proven the Commission’s decision no longer correct.<sup>15</sup> Sprint thus implies that a basis for its conclusion is that significant changes have occurred in the relay industry since April 2002, over three years ago. However, much more recently than that, in comments filed on October 18, 2004, Sprint explicitly and unambiguously *supported* maintaining a combined rate.<sup>16</sup> Accordingly, Sprint’s “passage of time” is really just over seven months. The past seven months, however, have not seen changes in the provision of relay service – either in technology, cost, or extent of use – that indicate that the Commission should adopt separate rates. For that matter, no changes have occurred over the past three years that call for adopting separate rates.

The costs of providing relay service are driven by the same principal cost factors as they were when the Commission first ordered that IP Relay and traditional TRS should be compensated at the same rate. Two of those factors, communications assistants and relay facilities, are incurred for both IP Relay and traditional TRS, so they do not make one less expensive to provide than the other.

Sprint contends that access charges and the cost of complying with service standards are greater for traditional TRS than for IP Relay, thus making it more expensive to provide traditional TRS,<sup>17</sup> but Sprint’s argument is hopelessly flawed. First, when Sprint filed comments in *support* of maintaining the same rate for IP Relay and traditional TRS in October 2004, just over seven months ago, it made no mention of

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<sup>15</sup> *Sprint 2005 Comments* at 2.

<sup>16</sup> *Sprint 2004 Comments* at 7 (“It is Sprint’s experience that there are no significant cost differences in the provision of Internet Relay and traditional TRS. Thus, Sprint believes that the TRS Fund Administrator should continue to compensate both services at the same rate.”).

<sup>17</sup> *Sprint 2005 Comments* at 2-3.

access charges and compliance with service standards making it more expensive to provide traditional TRS. Rather, it simply stated, “It is Sprint’s experience that there are no significant cost differences in the provision of Internet Relay and traditional TRS.”<sup>18</sup> The access charges and regulatory compliance costs that Sprint now claims are so relevant were present in October 2004, when Sprint claimed there were no significant differences in the cost of providing Internet Relay and traditional TRS. What has changed? Nothing, except for Sprint’s position, which it now seeks to prop up with any support.

The reality of the matter is that, with regard to access charges, any differences in access charges for IP Relay and such charges for traditional TRS are offset by costs exclusive to IP Relay. The provision of IP Relay involves certain costs on the originating side of the call that are not involved in traditional TRS, including the Internet gateway, bandwidth, software, web servers, firewalls, and licenses. Hamilton Relay noted that “there are more call wrap-up and call set-up costs involved with Internet Relay compared to traditional TRS, which leads to higher labor costs on a per-conversation minute basis for Internet Relay.”<sup>19</sup> Hands On Video Relay Services noted that “IP Relay providers likely have higher network costs due to the higher cost of computer work stations and their associated Internet infrastructure.”<sup>20</sup>

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<sup>18</sup> *Sprint 2005 Comments* at 2-3; *Sprint 2004 Comments* at 7.

<sup>19</sup> *Hamilton Relay 2004 Comments* at 9.

<sup>20</sup> *Hands On Video Relay 2004 Comments* at 26.

With regard to regulatory compliance costs, MCI is not aware of any significant differential in such costs, certainly not at the interstate level, for the provision of IP Relay and the provision of traditional TRS.

In consideration of the foregoing, the costs of providing IP Relay and the costs of providing traditional TRS are generally the same. Any negligible difference is not enough to justify imposition of separate rates.

The cost of providing traditional TRS may be higher than the cost of providing IP Relay for certain TRS providers because of those providers' individual inefficiencies. However, the fact that some providers of traditional TRS may be less efficient, and thus have higher costs than some providers of IP Relay, does not mean that their individual higher costs should lead the Commission to separate the compensation rates and allow a higher rate for traditional TRS and a lower rate for IP Relay. In short, the Commission should not reward inefficient providers of traditional TRS by penalizing providers of IP Relay.

**B. The Commission Should Adopt Hamilton Relay's MARS Plan**

Hamilton Relay has proposed, and the Commission is considering, an alternative rate structure known as the Multistate Average Rate Structure Plan ("MARS Plan") for the interstate fund.<sup>21</sup> In its Comments, Hamilton Relay explains that the MARS Plan is grounded in competition, stating that it calculates a compensation rate "based on the

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<sup>21</sup> See In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, Hamilton Relay's Petition for Reconsideration (filed Oct. 1, 2004).



average of competitively-bid intrastate TRS rates across the country.”<sup>22</sup> It urges the Commission “to solicit public comment on the MARS Plan when it issues a decision on the TRS Fund Administrator’s proposal for 2005-2006 rates.”<sup>23</sup> AT&T also recognizes the merits of the plan, recommending that the Commission give consideration to it.<sup>24</sup>

In its Comments, MCI supported Hamilton Relay’s MARS Plan, and it reiterates that support here and joins with Hamilton Relay and AT&T in supporting the plan.<sup>25</sup> The MARS plan would provide for concrete, indisputable evidence as to the actual costs of providing relay services based upon a competitive bid process and therefore offers the most concrete foundation to develop a uniform reimbursement rate structure that is fair to all. Moreover, according to Hamilton Relay, the plan would reduce the compensation rate for both IP Relay and traditional TRS.<sup>26</sup>

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<sup>22</sup> *Hamilton Relay 2005 Comments* at 2.

<sup>23</sup> *Id.*

<sup>24</sup> *AT&T 2005 Comments* at 7 n.10.

<sup>25</sup> *MCI 2005 Comments* at 5-6.

<sup>26</sup> *Hamilton Relay 2004 Comments* at 9-10.

### **III. CONCLUSION**

WHEREFORE, THE PREMISES CONSIDERED, MCI respectfully requests that the Commission act in the public interest in accordance with the positions set forth herein.

Respectfully submitted,

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May 25, 2005

**CERTIFICATE OF SERVICE**

I, Michelle D. Lopez, hereby certify that on this 25th day of May, 2005, copies of the foregoing were served by electronic mail, unless otherwise noted, on the following:

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